

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

**Hearing Date: January 10, 2019**  
**Hearing Time: 2:00 p.m.**

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In re

Chapter 11

VORAS ENTERPRISES, INC.,

Case No. 17-45570 (NHL)

Debtor.  
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**LIMITED OBJECTION OF THE UNITED STATES TRUSTEE TO CONFIRMATION  
OF THE DEBTOR'S AMENDED PLAN OF REORGANIZATION**

TO: THE HONORABLE NANCY HERSHEY LORD,  
UNITED STATES BANKRUPTCY JUDGE:

William K. Harrington, the United States Trustee for Region 2 (the "United States Trustee"), by and through his undersigned counsel, respectfully submits this limited objection to the confirmation of the amended plan of reorganization (the "Plan"), dated June 19, 2018 of Voras Enterprises, Inc., (the "Debtor"). ECF Doc. No 110. For the reasons set forth below, the Plan should not be confirmed unless the Debtor can establish that it meets the requirements of section 1129 of the Bankruptcy Code. In support hereof, the United States Trustee respectfully states:

**1. BACKGROUND**

The Debtor's Plan, which provides for payment of all claims in full, is to be funded by a sale of its property located at 609-619 Throop Avenue, Brooklyn, New York (the "Property"), pursuant to a contract (the "Contract of Sale") with 619 Throop Acquisition Corp. ("619 Throop" or the "Purchaser"). The Contract of Sale, attached as Exhibit A to the Plan, as well as the Plan itself, provide that a portion of the \$12 million sale price (the "Purchase Price") is to be paid to

Northeast Brooklyn Development Corp. (“NEB”)<sup>1</sup> as a charitable contribution, and each document states as follows:

The Purchase Price shall be the sum of (i) the amount necessary to pay all administrative, professional, priority, secured, and unsecured claims and costs of closing in the Case in cash, in full, from the proceeds of sale (the “100-cent Plan Amount”); and (ii) the difference between the 100-cent Plan Amount and \$12,000,000.00 (the “Charitable Contribution”). The Charitable Contribution shall be paid to NEB, a 26 U.S.C. § 501(c)(3) organization, as a charitable contribution.

ECF Doc. No 110.

## **2. LIMITED OBJECTION**

It is unclear how the proceeds of sale can qualify as consideration for the purchase of the Debtor’s Property on one hand, and as a charitable contribution from the Purchaser to a non-debtor entity on the other. This proposed sale transaction, that would bestow a benefit on NEB and 916 Throop, calls into question who negotiated the arrangement on behalf of NEB, and why this non-debtor entity has been inserted into a sale transaction of estate Property for the sole purpose of receiving a charitable contribution.

Moreover, the payment structure of the Purchase Price raises tax implications, including whether: 1) the Purchaser is entitled to a deduction for a “charitable contribution” which is actually consideration for the purchase of real estate, 2) the Debtor is entitled to a transfer tax exemption for the entire Purchase Price and 3) whether the charitable contribution classification, if improper, renders the plan unconfirmable. 11 U.S.C. §§ 1146(c) and 1129(d). Additional issues arise with respect whether the real estate broker’s commission can or should extend to that portion of the Purchase Price to be paid to NEB as a charitable contribution.

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<sup>1</sup> NEB is the sole member of the Debtor.

For these reasons, unless the Debtor can adequately address the concerns outlined above, the United States Trustee objects to confirmation of the Plan to the extent its implementation is dependent upon the Contract of Sale that calls for the Purchase Price to include a charitable contribution to NEB.

Dated: New York, New York  
January 7, 2019

Respectfully submitted,

WILLIAM K. HARRINGTON  
UNITED STATES TRUSTEE

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